



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PT

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/105,444	08/11/1993	LYNN E. SPITLER	04370003.00	3000
25225	7590	06/14/2004	EXAMINER	
MORRISON & FOERSTER LLP 3811 VALLEY CENTRE DRIVE SUITE 500 SAN DIEGO, CA 92130-2332			ART UNIT	PAPER NUMBER

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.	Applicant(s)	
08/105,444	SPITLER ET AL.	
Examiner	Art Unit	
Phillip Gambel	1644	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 14 February 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. A single ground of rejection has been applied to two or more claims in this application, and
 - (a) the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. Other (including any explanation in support of the above items):

It appears that appellant has relied upon new evidence, namely Peterson, *The Urinary Tract and Male Reproductive System in 17 Pathology* 928 (Rubin and Farber, eds. 1988) and Israeli et al., *Cancer Res.* 53(3): 227-230 (1993) in the Brief on Appeal, filed 2/14/04. Furthermore, these references do not appear in the scanned IFW file application, either on an IDS nor as a separate non-patent literature.

Phillip P. Gambel
Phillip Gambel
Primary Examiner
Art Unit: 1644
6/8/04

TECH CENTER 1600
Part of Paper No. 06082004